

IN THE UNITED STATES DISTRICT COURT  
FOR THE NORTHERN DISTRICT OF GEORGIA  
ATLANTA DIVISION

PROGRESSIVE MOUNTAIN  
INSURANCE COMPANY,

Petitioner,  
v.  
  
ROBERT RADCLIFF,  
VBC EXPRESS LOGISTICS, LLC,  
KEA TRANSPORTATION GROUP,  
LLC, ALAN DISEKER, IV and  
KENDALL DISEKER, Individually  
and as parents and natural guardians of  
ALAN DISEKER, V, a minor,  
MARGARET MELZER, and  
MICHELLE DENNEY, Individually  
and as next friend of HUDSON  
DENNEY, a minor child,

Respondents.

Civil Action File No.:  
1:23-cv-02322-JPB

**PETITIONER'S MOTION TO DISMISS DISEKER RESPONDENTS**

COMES NOW, Petitioner Progressive Mountain Insurance Company and, pursuant to Fed. R. Civ. P. 41(a), hereby requests the voluntary dismissal of Respondents Alan Diseker, IV and Kendall Diseker, Individually and as parents and natural guardians of Alan Diseker, V, a minor, with prejudice.

In support of said Motion, Petitioner shows the Court that the Disker Respondents have dismissed with prejudice their underlying tort suit, styled *Alan Diseker IV and Kendal Diseker, individually and as parents and natural guardians of Alan Diseker V, a minor v. Robert Radcliff, VBC Express Logistics, LLC, Kea Transportation Group, LLC, Progressive Mountain Insurance Company, John Does (1-5) and ABC Corporations (1-5)*, State Court of Fulton County, Civil Action No. 22EV005271. (A true and accurate copy of the Dismissal With Prejudice is attached hereto as Exhibit “A.”) As the Diseker Respondents have dismissed with prejudice their claims arising from the motor vehicle accident that is the basis of the instant declaratory judgment action, they are no longer interested parties and will not be prejudiced by their dismissal from this action.

Respectfully submitted on this 9th day of November, 2023.

LUEDER LARKIN & HUNTER, LLC

/s/ Samuel H. Sabulis  
SAMUEL H. SABULIS  
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**CERTIFICATION OF COMPLIANCE**

The Undersigned Counsel hereby certifies that the foregoing has been prepared using Times New Roman 14-Point Font, as approved in LR 5.1C.

**CERTIFICATE OF SERVICE**

I hereby certify that a true and correct copy of the foregoing was served upon all attorneys to this matter by filing with the Court's CM/ECF system, which will automatically e-mail notification of same to the following counsel of record as follows:

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(Signature on following page)

Respectfully submitted, this 9th day of November, 2023.

LUEDER, LARKIN & HUNTER LLC

/s/ Samuel H. Sabulis

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# EXHIBIT “A”

IN THE STATE COURT OF FULTON COUNTY  
STATE OF GEORGIA

ALAN DISEKER IV and KENDALL )  
DISEKER, individually and as parents and )  
natural guardians of ALAN DISEKER V, a )  
minor, )  
Plaintiffs, )  
v. ) CIVIL ACTION FILE  
ROBERT RADCLIFF, VBC EXPRESS ) NUMBER: 22EV005271  
LOGISTICS, LLC, KEA )  
TRANSPORTATION GROUP, LLC )  
PROGRESSIVE MOUNTAIN )  
INSURANCE COMPANY, JOHN DOES )  
(1-5) and ABC CORPORATIONS (1-5), )  
Defendants. )

**DISMISSAL WITH PREJUDICE**

COMES NOW Plaintiff, ALAN DISEKER IV and KENDALL DISEKER, individually and as parents and natural guardians of ALAN DISEKER V, through their attorney of record, and dismiss thei Complaint against the Defendant with prejudice.

Respectfully submitted this 12th day of July, 2023

KALKA LAW GROUP

BY: /s/Anthony C. Kalka  
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